

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION

|                     |   |                               |
|---------------------|---|-------------------------------|
| ROBERT E. DYER,     | : | NO. 1:11-CV-730               |
|                     | : |                               |
| Plaintiff,          | : |                               |
|                     | : |                               |
| v.                  | : | <b>ORDER ADOPTING AND</b>     |
|                     | : | <b>AFFIRMING REPORT &amp;</b> |
| STEPHANIE D. BROWN, | : | <b>RECOMMENDATION</b>         |
| et al.,             | : |                               |
|                     | : |                               |
| Defendants.         | : |                               |

This matter is before the Court on the Magistrate Judge's November 17, 2011 Report and Recommendation (doc. 4), to which there were no objections filed. Having reviewed this matter de novo pursuant to 28 U.S.C. § 636(b)(1)(B), we find the Magistrate Judge's Report and Recommendation thorough, well-reasoned, and correct. Therefore, the Court hereby ADOPTS and AFFIRMS the Magistrate Judge's Report and Recommendation and therefore DISMISSES WITH PREJUDICE Plaintiff's complaint. We note that Plaintiff was granted leave to proceed in this matter in forma pauperis by the Magistrate Judge (doc. 2). Accordingly and in addition, based on the reasons underpinning our decision to dismiss Plaintiff's complaint, we certify, pursuant to 28 U.S.C. § 1915(a)(3), that any appeal taken from this Order would not be taken in good faith; any application made to this Court to appeal in forma pauperis thus will be DENIED. As a non-prisoner, pursuant to Fed. R. App. P. 24(a)(5), Plaintiff is free to apply to proceed in forma pauperis in the United States Court of Appeals for the Sixth Circuit. See Callahan v. Schneider, 178 F.3d 800, 803-04

(6th Cir. 1999), overruling in part Floyd v. United States Postal Service, 105 F.3d 274 (6th Cir. 1997).

SO ORDERED.

Dated: December 14, 2011

/s/ S. Arthur Spiegel

S. Arthur Spiegel

United States Senior District Judge